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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/634,235	08/05/2003	Peter Bernhardt	1-24671	6403

4859 7590 08/05/2005

MACMILLAN SOBANSKI & TODD, LLC
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EXAMINER

GARCIA, ERNESTO

ART UNIT	PAPER NUMBER
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3679

DATE MAILED: 08/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/634,235

Applicant(s)

BERNHARDT, PETER

Examiner

Ernesto Garcia

Art Unit

3679

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 May 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Drawings

The drawings were received on May 19, 2005. These drawings are not acceptable.

The drawings are objected to under 37 CFR 1.83(a) because they fail to show the height B measured between the plate (*vis.* plane) at which it contacts the shoulder 2 and its outer end as amended in the paragraph beginning on page 3, line 10 as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Applicant should note that the height B as presented in the replacement drawings is between the plane at which it contacts the shoulder and some extra line, which is not the outer end of the shoulder 20.

The drawings are objected to because the line unreferenced in Figures 1 and 2 above the outer end of the shoulder 20 makes unclear what it represents. The extra line appears to be a draftsman's error and needs to be deleted. Further, the cross

Art Unit: 3679

hatching of the sealing bellows 28 is incorrect. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. See MPEP 608.02(e).

Specification

The disclosure is objected to because of the following informalities: "plate" in the second to the last line of the amended paragraph to the specification on page 3 should be --plane--. Appropriate correction is required.

Claim Objections

Claims 1, 3 and 5 are objected to because of the following informalities:

regarding claim 1, one of the periods in line 9 should be deleted;

regarding claims 1, 3, and 5, --vehicle-- should be added before "component" in lines 8 and 9 of claim 1, in line 2 of claim 3, and in line 3 of claim 5; and,

regarding claim 5, "it" in line 2 needs to be defined. Appropriate correction is required.

Claim Rejections - 35 USC § 112

Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the metes and bounds of the claim is unclear. The language "consisting of" in line 1 conflicts with "including" in line 2 or otherwise renders the scope unclear. Since "consisting of" in line 1 is a closed-ended clause, the language precludes other components from being recited. For instance, nut 42 is precluded from claim 1 and thus the nut 42 is required to maintain compression of the sealing member. Further, claim 4 adds an additional component, i.e., the "metal ring", which claim 1 precludes adding anymore elements to claim 1 since the claim uses "consisting of" in line 1 of claim 1. Further, is "ball joint" open-ended and thus every other possible element falling within "ball-joint"?

Regarding claims 2-5, the claims depend from claim 1 and therefore are indefinite.

Claim Rejections - 35 USC § 102

Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by the German patent, DE-1,575,708 (see marked-up attachment).

Regarding claim 1, the German patent '708 discloses, in Figure 2, an assembly consisting of a vehicle component **1** and a ball joint **5**. The ball joint **5** includes a housing **3**, a ball stud **10**, and a sealing bellows **6**. The sealing bellows **6** lies against the housing **3** and the ball stud **10**. The ball stud **10** has a holding surface **18** and a shoulder **19**. The holding surface **18** lies against a sealing surface **A7** of the sealing bellows **6**. The ball joint **5** is mounted to the vehicle component **1** such that the sealing surface **A7** is compressed in an axial direction **A9** between the shoulder **19** and the vehicle component **1**. Applicant is reminded that limited patentable weight is given to the dimension of the sealing surface of the sealing bellows before being deformed. Since there is a shoulder 19, it is inherent that when the ball pivot is mounted, the sealing bellows does not move further beyond the shoulder 9 when being compressed.

Regarding claim 2, the holding surface **18** and sealing surface **A7** are cylindrical. Note, the sealing surface **A7** conforms to the holding surface **18** which is cylindrical.

Regarding claim 3, a contact surface **A10** is provided so as to adjoin the holding surface **18** on a side of the holding surface **18** facing away from the housing **3**.

Regarding claim 4, the sealing bellows **6** is provided with a metal ring **8** urging the sealing surface **A7** against the holding surface **18**.

Regarding claim 5, the sealing bellows **6** is dimensioned such the sealing bellows **6** cannot slip off from the holding surface **18** when the ball joint **5** is not mounted to the vehicle component **1**. Applicant is reminded that limited weight is given to features or characteristics of the parts of the invention prior to being an assembly. Since the invention is an assembly, all features and characteristics of the parts in the assembly should be in reference after assembling.

Response to Arguments

Applicant's arguments with respect to claims 1-5 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The following prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Broszat et al., 5,152,628, Yagyu, 6,739,789, the German patent application, DE-20120096U, and the French patent, FR-1,421,289, show a similar assembly.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. In particular, the added limitations "An assembly consisting of a vehicle component and a" of claim 1, line 1, "and a shoulder" of claim 1, line 5, and "said ball joint being mounted to the component such that the sealing surface is compressed in an axial direction between said shoulder and said component" of claim 1, lines 8-9, necessitated the new grounds of rejection. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ernesto Garcia whose telephone number is 571-272-

Art Unit: 3679

7083. The examiner can normally be reached from 9:30-5:30. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached at 571-272-7087.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



DANIEL P. STODOLA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

E.G.

August 2, 2005

Attachment: one marked-up page of German patent, DE-1,575,708

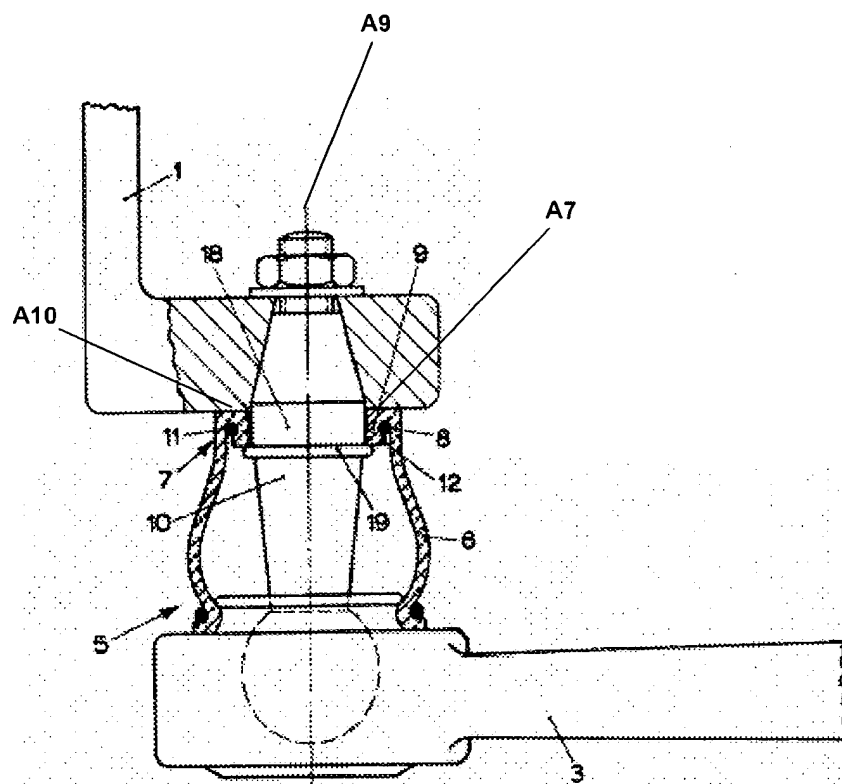


Fig. 2



Name of Inventor: Peter Bernhardt
Name & Telephone Number of Person to Call if
Necessary: Douglas V. Pavelko: (419) 255-5900
Serial No. 10/634,235 Sheet 1 of 1
Docket No. 1-24671

REPLACEMENT SHEET

1/1

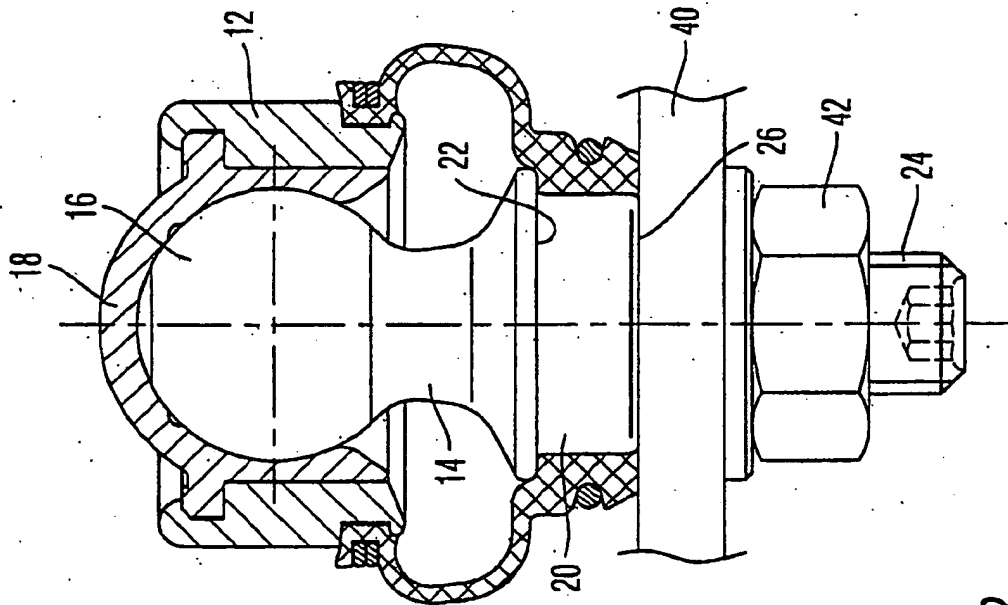


Fig. 2

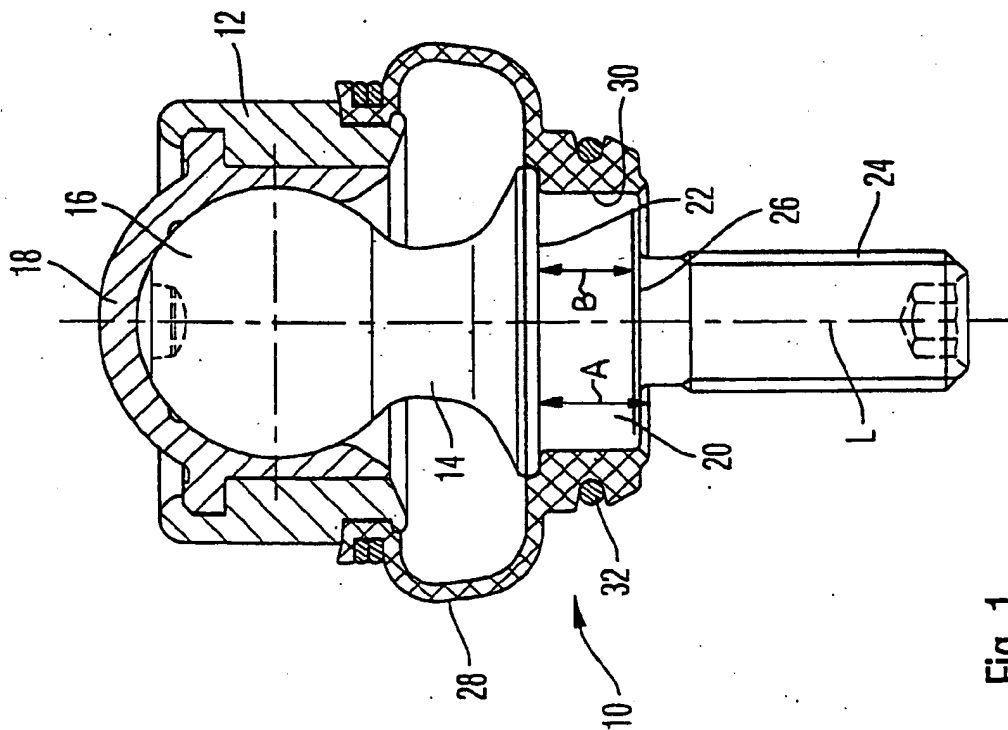


Fig. 1